

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION
ELAINE R. FOSSUM, FOSSUM	:	AND ORDER
FUNERAL HOMES, BANGOR &	:	LS0009191FDR
ONALASKA WISCONSIN	:	
RESPONDENTS	:	

Elaine R. Fossum
510 2nd Avenue South
PO Box 278
Onalaska, WI 54650-0278

Division of Business Licensure and Regulation
Funeral Directors Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The Funeral Directors Examining Board having considered the Stipulation Agreement Annexed-hereto of the parties, in resolution of the captioned-matters makes the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to jurisdiction and authority granted to the Board, that the Stipulation Agreement annexed hereto, filed by Complainant’s Attorney, shall be and hereby is incorporated, made and ordered the Final Decision and Order of the State of Wisconsin, Funeral Directors Examining Board.

Let a copy of this Order be served on Respondent by certified mail.

Dated this 19th day of September, 2000.

Roy Pfeffer
Chairman

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	98 FDR 016
ELAINE R. FOSSUM, FOSSUM FUNERAL	:	98 FDR 026
HOMES, BANGOR & ONALASKA WISCONSIN	:	98 FDR 014

Respondent Elaine R. Fossum (Fossum), her attorney, Robert D. Hoyt, and Complainant's attorney, Henry E. Sanders, Division of Enforcement, having reached agreements for disposition of the captioned-matters, stipulate and agree as follows:

1. Respondent Fossum of 510 2nd Avenue South, P.O. Box 278, Onalaska, WI 54650, is and was at all time material to the complaints, licensed as a funeral home director, and has been so licensed under the provisions of Chapter 445, Wis. Stats since July 16, 1956.

a. Respondent is owner and Funeral Director in charge of Fossum Funeral Homes in Bangor and is responsible for both Bangor and Onalaska, Wisconsin funeral establishments.

2. This Stipulation, dispositive of investigative complaints #98 FDR 016, #98 FDR 026 and #99 FDR 014, shall be submitted to the Funeral Directors Examining Board (Board) for approval and disposition of the matters. If the terms of the Stipulation are not acceptable to the Board, then the parties shall not be bound by any of the provisions of the Stipulation.

3. Respondent has been advised of her right to public hearings on each and every allegation of the complaints, but hereby freely and voluntarily waives her right to hearings in these matters on the condition that all provisions of this Stipulation be acceptable to and approved by the Board.

a. Respondent further agrees to waive any appeal of the Board's Final Decision and Order adopting the Stipulation Agreement.

4. On October 18, 1982, Respondent entered into an Irrevocable Funeral Trust Agreement with Douglas Amborn to provide funeral goods and services at the time of his death. On March 24, 1997, Mr. Amborn died and Respondent handled the funeral arrangements, and pursuant to the contract, was supposed to have had Mr. Amborn's date of death inscribed onto his headstone.

5. On July 21, 1998, complaint #98 FDR 016 was received from Elmer Amborn and Vera Knoll, Douglas Amborn's brother and sister, complaining that Respondent had, after repeated attempts, neglected to provide the final Statement of Funeral Goods and Service Provided, which the family needed in order to settle the deceased's estate. The Complainants also indicated that Respondent had also failed to have the date of the deceased's death placed onto his headstone. After having made numerous contacts to Respondent to get her to have the inscribing done and to obtain the final funeral bill, the Complainants retained attorney Dan Arndt to assist the family in their unsuccessful dealings with Respondent.

6. On July 31, 1997, August 18, 1997, October 31, 1997, December 19, 1997, and March 17, 1998, Attorney Arndt wrote letters to Respondent regarding the matters and asked Respondent to contact the family so that the family could get closure regarding the death of the deceased. Respondent did not respond to Attorney Arndt's correspondence and she ignored his pleas to contact the Complainants.

7. During the course of investigating these matters, Investigator Willie Garrette contacted Respondent via letters dated September 9, 22, 1998, and also talked to her on the telephone on September 23, 1998, regarding complaint #98 FDR 016 and a new complaint, #98 FDR 026. Investigator Garrette requested a written response to the allegations in the complaints from Respondent by October 2, 1998.

8. On October 2, having received no responses regarding these matters, Investigator Garrette wrote Respondent another letter and also had contacts with Robert Moore, a funeral director employed by Respondent. On October 7, 1998, Investigator Garrette telephoned Respondent and left a message on her answering service, but she did not return his call. That same day Investigator Garrette telephoned Moore and Moore indicated that he would also contact Respondent regarding these matters.

9. On October 8, 1998, after repeated and unsuccessful attempts had been made to contact Respondent for purposes of obtaining responses to the complaints and for related documentation, Subpoenas were mailed to her by Certified

Mail. One Subpoena was returned to the Department after the Postman had attempted to deliver it to Respondent on three separate occasions. On October 13, 1998, a letter was received from Attorney Robert Hoyt indicating that Respondent had retained him regarding the pending matters. A copy of the Subpoena and other related documents were then faxed to Respondent's attorney.

10. The second complaint #98 FDR 026 was opened for investigation against Respondent on September 22, 1998, alleging that Respondent had failed to fulfill contractual obligations, i.e., on March 31, 1993, Respondent entered into funeral, vault and casket trusts to provide funeral goods and services for Margurite Hauser. On May 22, 1995, Ms. Hauser died and Respondent handled the funeral services, and pursuant to the Statement of Funeral Goods and Services Provided, Respondent was supposed to have an inscription (date of death) placed onto the deceased's headstone. The Complainant indicates that after five months had passed and Respondent had not had the inscription placed onto the headstone, Respondent was contacted and promised to have the inscribing completed by the following spring.

11. On March 26, 1999, Investigator Garrette received a letter from the Complainant that stated: "Mrs. Fossum responded as soon as she heard from you. She had the death date put on the stone, called and apologized as well as wrote a letter of apology."

12. On July 19, 1999, complaint #99 FDR 014 was received against Respondent, and prior to that complaint being opened for investigation, Marlene Meyer, Program Assistant in the Division of Enforcement, mailed a 10 day letter to inform Respondent of the complaint and to obtain related information. After no response was received from Respondent, a second letter was mailed to Respondent via Certified Mail. On August 27, 1999, a response was finally received from Respondent's attorney, but the requested information and documentation were not provided.

13. Regarding complaint #99 FDR 014, the Complainant indicates that Jane Aumock, her mother-in-law, died in 1991, and Respondent handled the funeral arrangements. Prior to Mrs. Aumock's death, an irrevocable funeral trust had been established at M&I Bank in Onalaska and part of Respondent's charges for the deceased's funeral arrangements were to be paid from that trust. The family released the trust funds to Respondent as part of the payment toward the costs for the deceased's funeral, and Respondent was legally entitled to contact M&I to have the bank disburse those funds to her. There after, M&I bank completed annual 1099 income tax reporting forms for interest earned on the Aumock trust account using Jane Aumock's social security number, rather than the funeral home's Tax Id. number.

14. The Complainant indicated that she and M&I contacted Respondent on numerous occasions to attempt to get the matter resolved, but Respondent was non-responsive to their attempts. Respondent finally resolved this matter on July 29, 1999, when M&I issued her a check for the trust funds and interest that had accumulated in Mrs. Aumock's trust account since 1991. Respondent's attorney admits that Respondent was responsible for the reporting of the trust account interest that accrued after May 29, 1991, since the family had released the trust to her as partial payment for the deceased's funeral bill.

15. Based upon the above enumerated facts and series of occurrences, Respondent has variously violated Secs. FD 3.02(5),(10), Wis. Adm Code, Unprofessional conduct. (5) Refusing to comply with a duly authorized request for information by the board in a timely manner... There is a rebuttable presumption that a person who takes more than 30 days to provide information requested by the board has not acted in a timely manner; (10) Failing to demonstrate respect for the feelings of individuals involved in the grieving process by leaving matters pending for family members of the deceaseds for too long a period of time.

16. Respondents' funeral establishments are subject to disciplinary action pursuant to section 445.105 Wis. Statutes.

17. Based upon the above and in settlement of these matters, Respondent hereby consents, accepts and agrees to be suspended as a Funeral Director for a period of two (2) weeks (14 days); that both the Bangor and Onalaska funeral establishments be Reprimanded, and that Respondent pay the amount of \$1,000.00 as part assessment of costs in resolving the matters.

a. This Decision is effective ten (10) days following adoption of the Final Decision and Order adopting the stipulation agreement by the Board.

18. Respondents' ordered suspension shall commence from and including Sunday, October 8, 2000, through and including Saturday, October 21, 2000. On or before October 8, 2000, Respondent shall submit all Wisconsin's Funeral Directors licenses/certificates or registrations previously issued to her to Departmental Monitor, Theodore Nehring, hereinafter.

19. Thereafter and during the period of ordered suspension, Respondent shall not be on the premises of any funeral establishment owned/operated by her, and she shall not participate directly or indirectly in the business of funeral directing.

20. After Saturday, October 21, 2000, the last day of the Board ordered suspension, Respondent may commence performing licensed funeral directing even if she does not yet have in hand her returned licenses from the Department.

21. The \$1,000.00 part assessment of costs shall be payable by cashier's check or money order, made payable to the Department of Regulation and Licensing, and shall be paid on or before October 6, 2000, and be submitted to:

Theodore Nehring, Monitor
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

22. If Respondent shall fail to pay the part assessment of costs as ordered, or fail to obtain a written extension from the Board to pay same, then she shall be considered to be in violation of the Board's order, and may be subjected to further discipline.

23. Respondent, her attorney and Complainant's attorney Sanders agree that this Stipulation Agreement may be incorporated into the Board's Final Decision and Order adopting the Stipulation Agreement.

24. Respondent further agree that Complainant's attorney Sanders and the Case Advisor assigned to the complaints, may appear at any closed deliberative meeting of the Board with respect to the Stipulation, but those appearances will be limited solely to clarification, justification, and to statements in support of the Stipulation and for no other purpose.

Elaine R. Fossum	09-15-00
Respondent	Date

Fossum Funeral Homes	09-15-00
Bangor & Onalaska, Wisconsin	Date
Respondents	

Robert D. Hoyt	09-15-00
Respondent's Attorney	Date

Henry E. Sanders	09-18-00
Complainant's Attorney	Date